



Docket No.: 201377US3

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/749,541

Applicants: Katsuhiko MAEDA

Filing Date: December 28, 2000

**For: LIGHT BEAM MAGNIFICATION ERROR AUTO
CORRECTING APPARATUS**

Group Art Unit: 2861

Examiner: Pham, Hai Chi

SIR:

Attached hereto for filing are the following papers:

**PROVISIONAL ELECTION OF SPECIES AND
SUBMISSION OF SUBSTITUTE SPECIFICATION,
SUBSTITUTE SPECIFICATION WITH MARKED-UP COPY
AND ATTORNEY DECLARATION
REQUEST FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136**

Our check in the amount of \$400.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

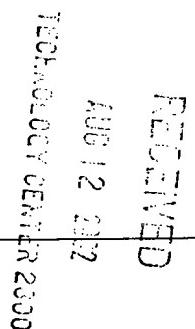
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AUG 07 2002
PATENT & TRADEMARK OFFICE
Docket No. 201377US-3

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Election
DSmalls-Log
8/14/02

RE APPLICATION OF

Katsuhiko MAEDA : GROUP ART UNIT: 2861

SERIAL NO: 09/749,541 : EXAMINER: H. PHAM

FILED: DECEMBER 28, 2000 :

FOR: LIGHT BEAM MAGNIFICATION :
ERROR AUTO CORRECTING
APPARATUS

PROVISIONAL ELECTION AND SUBMISSION OF SUBSTITUTE SPECIFICATION

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ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Restriction Requirement mailed on May 7, 2002, Applicants hereby provisionally elect, with traverse, Group I, identified by the Examiner as: containing claims 15-35, 43-65, 68-77, and 86-90, being drawn to "an image forming apparatus and method for correcting a magnification error due to fluctuation of the rotating speed of the beam deflecting device," and being classified in class 347, subclass 231.

Applicants respectfully traverse the election requirement for the reasons as follow.

In paragraph no. 2, the Office Action states that the inventions are distinct, each from the other because the inventions of Group I and II are unrelated. (Emphasis Added). The Restriction Requirement apparently used Form Paragraph No. 8.20.02 entitled "Unrelated Inventions." Applicant's respectfully refer the Examiner's attention to the Examiner Note to this form paragraph, wherein no. 1 states "This form paragraph is to be used only when claims are presented to unrelated inventions, e.g., a necktie and a locomotive bearing."

Clearly, the present invention is not to unrelated inventions since all claims are claiming a image forming device having numerous common structural elements.

In particular, it is not seen how the inventions of Group I and Group II could be considered to be unrelated when the invention of Group I and the invention of Group II are both claiming some variation of an image forming apparatus and further, both the inventions of Group I and Group II recite some variation of the following structural elements:

a light beam generating device configured to generate a light beam;

a light beam modulating device configured to modulate the light beam in accordance with a signal at a prescribed write clock frequency;

a light beam deflecting device configured to rotate by a prescribed rotation number and deflect the light beam so as to scan an image carrier in a main scanning direction,

...

a magnification correcting device configured to correct the magnification error by

changing the prescribed write clock frequency and the prescribed rotation number to prescribed levels based on a result of a comparison between the time difference signal and the reference time difference signal by said comparing device; and

a visualizing device configured to visualize an image formed on the image carrier after the magnification error is corrected.

Applicants respectfully submit that the inventions of Group I and II are the same invention merely claimed with different language to vary the scope of the invention.

Further, Applicants respectfully submit that the requirements of the Manual of Patent Examining Procedure (hereinafter "MPEP") section 806.04 and 808.01 have not been satisfied since it has not been shown both that the inventions of Groups I and II are incapable of use together AND that the inventions of Groups I and II have different modes of operation,

different functions, or different effects. (Emphasis added).

Additionally, MPEP § 803 states:

... If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

Accordingly, Applicants also respectfully traverse the outstanding Election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

With respect to paragraph no. 6 of the Restriction Requirement in which a substitute specification is being required, Applicants are hereby filing a substitute specification, including the claims, and a marked up copy of the specification.

Therefore, it is respectfully requested that the Restriction Requirement be withdrawn, and that a full examination on the merits of Claims 15-90 be conducted.

Respectfully submitted,

✓

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